

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

BASIN AND RANGE WATCH,

Plaintiff(s),

v.

BUREAU OF LAND MANAGEMENT AND
THE U.S. DEPARTMENT OF THE
INTERIOR,

Defendant(s).

Case No. 2:16-CV-403 JCM (PAL)

ORDER

Presently before the court is the matter of *Basin and Range Watch v. Bureau of Land Management et al.*, case number 2:16-cv-00403-JCM-PAL. Plaintiff's complaint alleges violations of the Freedom of Information Act ("FOIA") and the Administrative Procedure Act in relation to plaintiff's February 26, 2015, FOIA requests to the Bureau of Land Management ("BLM") and the BLM's subsequent review of those requests. (ECF No. 1). On July 5, 2016, defendants filed their motion for summary judgment. (ECF No. 20). On August 9, 2016, plaintiff filed its cross-motion for summary judgment. (ECF No. 21).

This matter was initially stayed for 30 days on September 22, 2016. (ECF No. 27). The stay was extended for an additional two weeks on October 27, 2016. (ECF No. 29). On November 15, 2016, the stay was extended until 14 days after a decision on plaintiff's motion to reopen discovery. (ECF No. 31). On December 9, 2016, plaintiff filed its motion to reopen discovery. (ECF No. 32).

Before that motion was decided, the parties stipulated to withdraw it, which was granted on January 27, 2017. (ECF Nos. 39, 41). This stipulation made no mention of when the stay would be lifted. (ECF No. 41). Therefore, there is currently no scheduled event that will lift the stay.

1 “It is well established that ‘[d]istrict courts have inherent power to control their docket.’”
 2 *Ready Transp., Inc. v. AAR Mfg., Inc.*, 627 F.3d 402, 404 (9th Cir. 2010) (second alteration in
 3 original) (quoting *Atchison, Topeka & Santa Fe Ry. v. Hercules, Inc.*, 146 F.3d 1071, 1074 (9th
 4 Cir. 1998)).

5 This case has been stayed for roughly five months. The dispositive motions have been
 6 outstanding for an even greater duration. (ECF Nos. 20, 21). Further, the November 15, 2016,
 7 order stated: “The Federal Defendants produced all information responsive to Plaintiff’s original
 8 FOIA requests.” (ECF No. 31 at 2). The December 9, 2016, declaration of David Becker indicated
 9 the following:

10 On September 14, 2016, [Mr. Becker] spoke with Troy Flake, Assistant United
 11 States Attorney and counsel for federal defendants, who advised me that the federal
 12 defendants would agree to release all of the documents that they had improperly
 13 withheld since Basin and Range Watch’s February 26, 2015 FOIA request. Mr.
 14 Flake asserted that Tonopah Solar (the submitter of the requested information) had
 15 withdrawn its objection to release of the documents.

16 (ECF No. 33 at 2). Moreover, it appears that the remaining conflict in this case involves attorneys’
 17 fees. (ECF Nos. 33, 41).

18 The parties have yet to put on the record any form of binding agreement that would render
 19 the adjudication of their dispositive motions moot, although a sworn declaration suggests that this
 20 action’s instigating issue—the failure to initially produce requested documents—has been resolved
 21 for at least three months. (ECF Nos. 31, 33). In fact, the parties expressed their anticipated
 22 resolution of that information disclosure issue in September 2016. (ECF No. 27).

23 “The court has a duty to decide the issues in each case before it, including those which
 24 have been presented during the course of litigation and before judgment. To do less is to
 25 acknowledge that we are not governed by the rule of law.” *Headwaters, Inc. v. Bureau of Land*
 26 *Mgmt., Medford Dist.*, 940 F.2d 435, 436–37 (9th Cir. 1991) (Ferguson, CJ., dissenting).

27 Accordingly,

28 IT IS HEREBY ORDERED that the instant stay be, and the same hereby is, LIFTED, and
 the court will start considering the motions that have been filed.

DATED February 21, 2017.


 UNITED STATES DISTRICT JUDGE